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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,374	09/29/2000	Ernest H. Zerenner	POPT-0004	1828

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EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3693

NOTIFICATION DATE	DELIVERY MODE
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06/09/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ecofficemonitor@woodcock.com

Office Action Summary	Application No. 09/676,374	Applicant(s) ZERENNER ET AL.
	Examiner DANIEL FELTEN	Art Unit 3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-99 is/are pending in the application.
- 4a) Of the above claim(s) 8,27-48 and 72-99 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 8-26, 49 and 50-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the Applicant's Response to the Election/Restriction dated 01/28/2011 is acknowledged. The Examiner wishes to thank the Applicant for pointing out the inadvertent error in the Election/Restriction made in regards to claims 8, 9 and 31-47. The following corrections below are provided to the Restriction requirement to the Applicant 11/29/2010. Note: The Examiner has provided both requirements for restriction and election of species. Thus it is being maintained that Group I consists of claims 1-7, 9, 10-26, 49 and 50-71 drawn to processing financial instrument data.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-7, 9, 10-26, 49, 50-71 drawn to processing financial instrument data to identify stock option spreads, classified in class 705, subclass 35.
 - II. Claims 27-30, 48, 96-98 drawn to providing alerts, classified in class 235 subclass 385
 - III. Claims 8 and 31-47 drawn to formulating searches for financial instruments, classified in class 707, subclass 758
2. Inventions I and II are directed to related to the application. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.050). In the instant case, the inventions as claimed are distinct because Group I relates to processing financial information while Group II relates to providing alerts.

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Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants. Also the Groups have different classifications.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7, 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Re claim 1: It is unclear how the results are determined at the computer system which provide a list of option spreads.

3. Claims 1-7, rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are:

re claim 7: the steps that are used to determine the results which provide the list of option spreads.

Re claim 9: the steps the computer system uses to formulate a trade request and defining the trades to be executed

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Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9, 10-26, 49, 50-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over AIQ systems (www.aiq.com) in view of “Track Data Announces Its AIQ systems Division Released Its Option Analysis Software Product—OptionExpert Business Wire: New York: Nov 9, 1999

Re claims 1 and 10:

AIQ discloses a method and system of processing financial instrument data to identify stock option spreads, in a computer system, comprising: receiving financial data from at least one data source; processing the financial data to derive values for a set of searchable parameters corresponding to stock option spreads; receiving user defined search criteria for searching the searchable parameters corresponding to the stock option spreads; searching the values derived for the set of searchable parameters for values having the user defined search criteria; and identifying a set of option spreads corresponding to values for the set of searchable parameters matching the user defined search criteria (see Options Expert Tour/Trading Expert Pro Tour).

AIQ does not directly disclose processing the financial data to derive values for a set of searchable parameters, however, does disclose that real-time dynamic prices are made available (see Options Expert Tour -Automatic Options Lists). It would have been obvious for an artisan at

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the time of the invention to recognize that the real-time price is equivalent to the values that may be derived from searchable parameters and/or criteria because an artisan at the time of the invention would be motivated to process the financial data to derive prices for a set of searchable parameters corresponding to stock options spreads so as to select the most desirable (or most profitable) option for the user. Thus such a modification would have been an obvious expedient well within the ordinary skill in the art.

Moreover there had been a question as to the date AIQ OptionsExpert was created (see applicant's remarks dated 03/01/2005). However the newly found business-article discloses that the release of OptionExpert took place in November 9, 1999 discussing the fact that Option expert provides online Internet tools "necessary to identify, analyze and track profitable options (see whole article). Thus it is being asserted that OptionsExpert is relevant as prior art to applicant's invention.

Re claims 2-7: see (Options Expert Tour/Trading Expert Pro Tour)

Re claim 9, 11-26 and 49 and system claims 50-71: see (Options ExpertTour/Trading Expert Pro Tour along with reasoning provided from claim 1

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kramer James can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel S Felten
Primary Examiner
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/Daniel S Felten/

Primary Examiner, Art Unit 3693